

**§ 19.247**

**27 CFR Ch. I (4–1–11 Edition)**

rounded to the nearest whole cent. The proprietor must be consistent and round the effective tax rates for all products to the same number of decimal places. When rounding, if the number to the right of the last decimal place to be kept is less than five, it will be dropped, if it is five or over, a unit will be added.

(c) *Example.* The following is an example of the use of the formula.

**BATCH RECORD**

Distilled spirits .....	2249.1 proof gallons.
Eligible wine (14% alcohol by volume).	2265.0 wine gallons.
Eligible wine (19% alcohol by volume).	1020.0 wine gallons.
Eligible flavors .....	100.9 proof gallons.

$$\begin{aligned}
 & 2249.1(\$13.50) + 2265.0(\$1.07) + 1020(\$1.57) + 16.6^1(\$13.50) \\
 & \hline
 & 2249.1 + 100.9 + (2265.0 \times .28) + (1020 \times .38) \\
 & \\
 & \$30,362.85 + \$2,423.55 + \$1,601.40 + \$224.10 \\
 & \hline
 & 2,350.0 + 634.2 + 387.6 \\
 & \\
 & \frac{\$34,611.90}{3,371.8} = \$10.27, \text{ the effective tax rate.}
 \end{aligned}$$

(26 U.S.C. 5010)

**§ 19.247 Use of effective (actual) tax rates.**

(a) *Select method of applying tax rate.* The proprietor may choose to apply an effective tax rate to taxable removals of distilled spirits products in accordance with § 19.248, § 19.249, or § 19.250. Any proprietor who does not elect one of these options must establish an effective tax rate for each batch of distilled spirits product on which a claim for tax credit for alcohol derived from eligible wine or eligible flavor will be made. The proprietor must compute the effective tax rates for these products in accordance with the instructions in § 19.246.

(b) *Record tax rates used.* The proprietor must record the effective tax rate

used on the dump or batch records for the products as required by § 19.598. The proprietor must record the serial numbers of cases of product removed at each rate on the record of tax determination or other related record. The proprietor must keep these records available for inspection by TTB officers.

(26 U.S.C. 5010, 5207)

**§ 19.248 Standard effective tax rate.**

(a) *Establishing a standard effective tax rate for a product.* The proprietor may establish a permanent standard effective tax rate for any eligible distilled spirits product, rather than calculate a separate effective tax rate for each

<sup>1</sup>Proof gallons by which distilled spirits derived from eligible flavors exceed 2.5% of the

total proof gallons in the batch (100.9 – (2.5% × 3,371.8) = 16.6).

batch of product made. If the proprietor elects to use this option, the proprietor must determine the permanent standard effective tax rate based on the least quantity and the lowest alcohol content of eligible wine or eligible flavors used to manufacture the product. Thus, the permanent standard effective tax rate is the highest tax rate that would apply to the product because it is based on a batch with the least amount of alcohol from eligible wine and flavors that qualify for the credit under 26 U.S.C. 5010. By using this method the proprietor forgoes the possible use of a lower tax rate in exchange for the convenience of using a permanent standard effective tax rate that does not have to be recomputed for each batch of product made. The proprietor must keep a permanent record of the standard effective tax rates established for each product, in accordance with § 19.615.

(b) *Batches subject to a higher tax rate.* Whenever the proprietor manufactures a batch of the product with a lesser quantity or lower alcohol content of eligible wine or eligible flavor, this will result in a higher tax rate on the product since the product will have less alcohol qualifying for the credit under 26 U.S.C. 5010 and a higher percentage of alcohol taxable at the rate published in 26 U.S.C. 5001. In such instances, the proprietor must keep the cased goods segregated from other completed cases of the same product subject to the permanent standard effective tax rate for that product. The proprietor must determine the tax rate for the non-standard batch in accordance with § 19.247.

(c) *TTB review of standard tax rates.* If the appropriate TTB officer finds that the use of this procedure jeopardizes the revenue, or causes administrative difficulty, the proprietor upon notification from TTB must discontinue use of this procedure.

(26 U.S.C. 5010, 5207)

#### **§ 19.249 Average effective tax rate.**

(a) *Establishing an average tax rate.* The proprietor may establish an average effective tax rate for any eligible distilled spirits product based on the total proof gallons in all batches of the same composition which have been pro-

duced during the preceding 6-month period and which have been or will be bottled or packaged, in whole or in part, for domestic consumption. At the beginning of each month, the proprietor must recompute the average effective tax rate so as to include only the immediately preceding 6-month period. The proprietor must show the average tax rate established for a product in the record of average effective tax rates as prescribed in § 19.613.

(b) *TTB review of average effective tax rates.* If the appropriate TTB officer finds that the use of this procedure jeopardizes the revenue, or causes administrative difficulty, the proprietor upon notification from TTB must discontinue use of this procedure.

(26 U.S.C. 5010, 5207)

#### **§ 19.250 Inventory reserve account.**

(a) The proprietor may establish an inventory reserve account for any eligible distilled spirits product by maintaining an inventory reserve record as prescribed by § 19.614. The effective tax rate applied to each removal or other disposition will be the effective tax rate recorded on the inventory reserve record from which the removal or other disposition is depleted. With an inventory reserve account, the proprietor will tax pay removals on a first-in first-out basis regardless of which lot of product is actually removed.

(b) If the appropriate TTB officer finds that the use of this procedure jeopardizes the revenue, or causes administrative difficulty, the proprietor upon notification from TTB must discontinue use of this procedure.

(26 U.S.C. 5010, 5207)

#### **ASSESSMENT OF TAXES BY TTB**

#### **§ 19.253 Assessment of tax on spirits not accounted for or reported.**

The proprietor is required by law to properly account for and report all spirits that it produces. TTB will assess the proprietor for the tax on the difference between the quantity reported and the quantity actually produced.

(26 U.S.C. 5006)